

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISCTRRICT OF MICHIGAN
SOUTHERN DIVISION**

JOHN CARPENTER

Case No.

Plaintiff,

Honorable _____

-v-

CITY OF FLINT, JACKIE POPLAR,
Individually and in her capacity as
City Council President and DAYNE
WALLING, Individually,

Defendants,

/

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**NOTICE OF REMOVAL TO THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN, SOUTHERN DIVISION**

NOW COME Defendants, City of Flint, Mayor Dayne Walling and Councilwoman Jackie Poplar, by and through their attorneys, who pursuant to 28 U.S.C §1441(b), requests that this action be removed from the Circuit Court for the County of Genesee, Michigan, to the

United States District Court for the Eastern District of Michigan, Southern Division, and in support thereof files the within notice of removal for the following reasons:

1. That Plaintiff has commenced an action against Defendants in the Circuit Court for the County of Genesee, Michigan entitled Carpenter -v- City of Flint, et al, bearing Case Number 11-95207, assigned to Circuit Judge Judge Richard Yuille (**Exhibit A**).
2. This is an action involving a federal question in that Plaintiff has alleged federal constitutional and statutory civil rights claims. (**Exhibit A, Counts II, V and VI**).
3. That, as such, this action is one over which the District Courts of the United States have been given original jurisdiction pursuant to 28 U.S.C. §1331.
4. That this action also involves state law claims which claims arise out of the same transaction or occurrence as Plaintiff's federal claims. (**Exhibit A, Counts I, III, IV, VII, VIII and IX**).
5. That Plaintiff's state law claims are related to his federal claims, over which this court has original jurisdiction, and arise from the same common nucleus of operative facts, and form part of the same case or controversy under federal law.
6. That, therefore, with respect to Plaintiff's state law claims, this action is one over which the District Courts of the United States have been given supplemental jurisdiction pursuant to 28 U.S.C. §1367(a).
7. That therefore, this is a civil action, which may be removed to this Court by Defendants pursuant to 28 U.S.C. §1441(a) and (b).
8. That this notice of removal is being filed within 30 days after the receipt by Defendants of Plaintiff's Complaint setting forth a claim for relief upon which action was based, and that the time for filing this notice of removal under the statutes of the United States, specifically 28 U.S.C. §1446(b), has not expired.

9. That Defendants will give written notice of the filing of this notice of removal to all adverse parties, and will file a copy of this notice of removal with the Circuit Court for the County of Genesee, as required by 28 U.S.C. §1446(d).

10. That filed with this Notice of Removal and made a part hereof are accurate and reliable copies of all process, pleadings, and orders served upon these Defendants thus far in this action.

a. Plaintiff's Summons & Complaint (Exhibit A)

b. Defendants' Notice of Filing of Notice of Removal (Exhibit B)

11. That Genesee County is contained within the Eastern District of Michigan, Southern Division, and therefore venue is proper pursuant to 28 U.S.C. §1391.

WHEREFORE, Defendants respectfully request that it may effect removal of this action from the Circuit Court for the County of Genesee, State of Michigan, to the United States District Court for the Eastern District of Michigan, Southern Division.

/s/Peter M. Bade

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Certificate of Service

I hereby certify that on January 25, 2011, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of such filing to the attorneys of record in this matter.

s/Nancy Forystek
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